

advocate for Milwaukee area workers and their families and a gifted spokesman for organized labor. He has helped the Labor Council to work better, communicate more productively with the community and within its own membership, and respond more quickly and effectively to individual challenges and broader economic and policy changes.

Tom's public service is not limited strictly to the responsibilities of organized labor. He currently serves as a member of the Greater Milwaukee Committee, one of the area's leading civic organizations, as well as on the Aurora Health Care Board of Directors and the City of Milwaukee's Ethics Committee. Tom has also served on the boards of directors of some of Milwaukee's most active and enduring institutions, including the International Institute, the Villa Terrace Art Museum, Community Care of Milwaukee, the Milwaukee Council on Alcoholism and Drug Dependence, and the American Red Cross.

Mr. Speaker, I have always respected Tom Parker's keen understanding of the impact the issues and policies at hand have on the people they affect. He has always remembered that a contract negotiation or a legislative decision is not an abstract, but a very tangible act with very real consequences for workers and their families. He has approached all of his public activities in this same spirit, and I am proud to count myself among the many who have benefitted from his example.

As Tom's family, friends, union brothers and sisters, and admirers prepare to celebrate his career, I am honored to offer my congratulations on a job well done, my thanks for a lifetime of service, and my very best wishes to Tom Parker.

RECOGNIZING RENEWAL WEEK AND THE VALUE OF COMMUNITY BASED PROGRAMS LIKE CHARACTER COUNTS IN THE FIGHT AGAINST JUVENILE CRIME

HON. ZACH WAMP

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 17, 1999

Mr. WAMP. Mr. Speaker, this week is Renewal Week. A week that we in the Renewal Alliance have set aside to remind our Colleagues and America about the value of private, community, and faith based organizations. Our nation has awakened this year to the reality of a cultural breakdown, where traditional values of respect and responsibility have often been replaced by indifference and apathy. But instead of just looking to Washington for a short term band-aid, I encourage everyone to help us look for a comprehensive solution. Our efforts should both protect our children and give them hope for their future. The only way we can do this is to bring traditional values back into our families, schools, and communities.

I want to share with you the exciting work being done by a program known as Character Counts. This is a program designed to bring character-based education to our nation's schools. The Character Counts curriculum is taught in my district in Hamilton County and

has been particularly successful this past school year. Values such as honesty, courage, citizenship, responsibility, values that helped make our country great, are discussed every week. In recent years violence, crime, addiction, poverty, and the breakdown of the family have taken its toll on the health of our local communities. If we truly want to stem the tide, we must return to our core values. I particularly want to praise Senator PETE DOMENICI who has been a strong advocate for this organization in the Senate and throughout the country. I encourage all of my colleagues to follow his lead.

Throughout this week, I encourage you to join me in empowering community institutions and encouraging community renewal to help inner cities and distressed rural communities gain their share of America's property. We must acknowledge a federal role, but let's focus on our communities to give our children hope for the future. We cannot fight this battle alone.

HONORING MEMBERS OF THE AMERICAN LEGION AUXILIARY

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 17, 1999

Mr. BILIRAKIS. Mr. Speaker, initially, the American Legion Auxiliary was organized by concerned women who took on the day-to-day responsibilities of life when U.S. soldiers were sent to Europe during World War I. Aware of the plight of fatherless families and the needs of returning veterans, these women vowed to continue their supportive role when the veterans of World War I founded the American Legion in 1919.

The first words of the Auxiliary preamble are "For God and Country." Auxiliary members believe in the ideals and principles of America's founding fathers. They also pledge to foster patriotism, preserve and defend the Constitution, promote allegiance to God and Country, and uphold the basic principles of freedom of religion, freedom of expression and freedom of choice.

The organization's programs were created to provide assistance, education and financial support for veterans and their families and to benefit the community because the Auxiliary focuses on helping to create a better society, particularly for the nation's citizens of the future, our children and young people. Through its nearly 12,000 units located in every state and some foreign countries, the Auxiliary embodies the spirit of America that has prevailed through war and peace.

I would like to recognize five exceptional Auxiliary members from Florida who have over 270 years of combined service to our nation. These women are: Shirley Campbell with 52 years of service; Edna Davis with 52 years of service; Barbara Pfohl with 52 years of service; Anna Rottensterger with 52 years of service; and Bertha Wolfe with 63 years of service.

These women have spent thousands of hours volunteering at the Bay Pines VA Medical Center. Their activities include holding monthly bingo and card parties; providing

homemade cookies to veterans; delivering candy and books to veterans in the hospital; and manning the Medical Center's information desks. These Auxiliary members have also distributed flags to thousands of school children, collected food for the needy and raised funds for student scholarships.

I want to commend each of these exceptional women and all of the members of the American Legion Auxiliary for their dedicated service to America's veterans and our nation.

THERE THEY GO AGAIN: CLINTON-GORE "BLACKLISTING" U.S. TAX- PAYERS, JOBS AND EMPLOYERS AS PAYBACK TO THE AFL-CIO

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 17, 1999

Mr. CUNNINGHAM. Mr. Speaker, I want to bring to my colleagues' attention an old Clinton-Gore Administration initiative to endanger American jobs, and raise the government's cost of doing business. This initiative is known as the Blacklisting Regulation. This old proposal has new life because a presidential election is coming, and Vice President GORE is paying back the AFL-CIO.

In short, this proposed addition to the Federal Acquisition Regulations (FAR) would "blacklist" employers deemed to have insufficient "responsibility" in relations with workers from being able to do business with the Federal Government. It does not make goods and services less costly to the taxpayers. It does not improve the quality of goods and services provided to the government. It does not streamline or improve the procurement process.

No, what the Clinton-Gore Blacklisting Regulation would do is hand the union bosses the sword of Damocles over every employer in America—and over every one of their workers. For under this dangerous proposal, an employer and its workers may be in full compliance with the labor laws and regulations, in full compliance with workplace safety laws, and in full compliance with all other laws and regulations relating to procurement, but in danger of a politically-driven and costly contract cutoff.

Here is how the Clinton-Gore Blacklisting Regulation would work. Say a union is waging economic terrorism on an employer, filing frivolous complaints with the Occupational Safety and Health Administration, the Wage and Hour Division and the Office of Fair Employment Practices. Then that pile of complaints—not convictions, not findings of wrongdoing, but complaints—may identify the targeted employer as insufficiently "responsible." Federal procurement officials would ban the government from doing business with that employer. And workers would lose their jobs. They would be unemployed. Unless, of course, they knuckled under to the union bosses' economic terrorism.

As Americans, we are united in support of safe workplaces, fair treatment of employees, the right of employees to bargain collectively according to the law, and a day's pay for a

day's work. Perhaps this Administration is not aware that America already has labor laws, and penalties for violating them. Perhaps this Administration is not aware that America has laws that prohibit contractor fraud, and penalties for violating them. These laws and our Constitution provide every American equal protection under the law.

So what is the purpose of this regulation, if it will not provide taxpayers any more value? I would rather not characterize this Clinton-Gore Blacklisting Regulation as driven by the Administration's payback of an old political debt to the AFL-CIO, or by the Vice President's moribund campaign for the White House. But let quote from the June 12, 1999, edition of *National Journal*, an article titled "Gore's Contract with Labor," by Alexis Simendinger:

Vice President Al Gore is on the verge of fulfilling a powerful promise he made to organized labor more than two years ago.

The business community views the language as nothing more than a well-timed gift from Gore to labor—a constituency the Vice President hopes to mobilize in full force on his behalf in the presidential race next year . . . some union presidents are reluctant to endorse Gore, because of differences with the Administration over trade. The Vice President is expected to meet with the holdouts before the AFL-CIO's Executive Council meets in Chicago in August.

The proposal is "not an analytically good thing to do, with clear benefits to the procurement system that will buy more for the public, or that will have any good government logic it," said one Administration official.

AFL-CIO President John J. Sweeney, in an eight-page memo distributed to national and international union presidents in March 1997, initiated a fact-finding effort to gather the kind of specifics that would justify the rule change that Sweeney sought and that Gore promised. In his memo, Sweeney said the AFL-CIO needed data "to withstand Republican and business community opposition in Congress and the courts."

This Clinton-Gore Blacklisting Regulation is wrong, Mr. Speaker. It is anti-taxpayer, anti-worker, anti-business and anti-American. It unbalances 60 years of labor laws enacted by Congress. And in the interest of every worker in America, unionized or not, whose livelihood providing goods and services to the U.S. Government is now endangered by the Clinton-Gore Blacklisting Regulation, we must work together to stop it.

For my colleagues and the public, I include a copy of this proposal in the CONGRESSIONAL RECORD. In addition, I want my colleagues to know that the AFL-CIO President John Sweeney memo referenced above was entered into the RECORD of April 15, 1997, page E-661, in a speech titled "There They Go Again: The Big Labor Bosses Versus American Taxpayers, Employers and Jobs."

DEPARTMENT OF DEFENSE
GENERAL SERVICES ADMINISTRATION
NATIONAL AERONAUTICS AND SPACE
ADMINISTRATION

48 CFR Parts 9 and 31

Federal Acquisition Regulation; Contractor Responsibility; Labor Relations Costs and Costs Relating to Legal and Other Proceedings

Agencies: Department of Defense (DOD), General Services Administration (GSA), and

National Aeronautics and Space Administration (NASA).

Action: Notice of proposed rulemaking.

Summary: The Federal Acquisition Regulatory Council proposes to amend FAR Parts 9 and 31 to clarify coverage and give examples of suitable contractor responsibility considerations; as well as to make unallowable the costs of 1) attempting to influence employee decisions respecting unionization, and 2) make unallowable those legal expenses related to defense of judicial or administrative proceedings brought by the Federal Government when a contractor is found to have violated a law or regulation, or where the proceeding is settled by consent or compromise.

Dates: Comments should be submitted to the FAR Secretariat at the address shown below on or before [insert date 120 days after *Federal Register* publication date] to be considered in the formulation of the final rule.

Address: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVRs), 18th and F Streets, NW, Room 4035, Attn: Ms. Beverly Payson, Washington, DC 20405.

Please cite FAR case 99- , in all correspondence related to this case.

For further information contact: at in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAR case 99- .

Supplementary information:

A. BACKGROUND

FAR Responsibility Criteria

The Federal Acquisition Regulatory Council is proposing to amend FAR Part 9 to clarify coverage concerning contractor responsibility considerations, by adding examples of what falls within the existing definition of an "unsatisfactory record of integrity and business ethics." The proposed amendment will provide Contracting Officers with guidance concerning general standards of contractor compliance with applicable laws when making pre-award responsibility determinations. Accordingly, language has been proposed for addition to FAR Subsection 9.104-1(d) and (e).

A prospective contractor's record of compliance with laws and regulations promulgated by the Federal Government are a relevant and important part of the overall responsibility determination. This proposed FAR amendment clarifies the existing rule by providing several examples of what constitutes an unsatisfactory record of compliance with laws and regulations. These examples are premised on the existing principle that the Federal Government should not enter into contracts with law breakers. For example, some Contracting Officers have inquired as to whether a prospective contractor's failure to comply with applicable tax laws may be considered in making a responsibility determination. The proposed rule clarifies that such a circumstance may be considered by the Contracting Officer. Similarly, inquiries have been made concerning contractors with a record of employment discrimination, and whether this circumstance should factor into the overall responsibility determination. Again, the proposed rule attempts to clarify the fact that an established record of employment discrimination would be a relevant part of the Contracting Officer's determination because such a record or pattern is a strong indication of a contractor's overall willingness or capability to comply with applicable laws.

Inquiry has also been made as to whether responsibility determinations must rest

upon a final adjudication. Normally, adverse responsibility determinations involving violations of law or regulation should be based upon a final adjudication by a competent authority concerning the underlying charge. However, in some circumstances, it may be appropriate for the Contracting Officer to base an adverse responsibility determination upon persuasive evidence of substantial non-compliance with a law or regulation, (i.e., not isolated or trivial), but repeated and substantial violations establishing a pattern or practice by a prospective contractor. The facts and circumstances in each such case will require close scrutiny and examination).

An efficient, economical and well-functioning procurement system requires the award of contracts to organizations that meet high standards of integrity and business ethics and have the necessary workplace practices to assure a skilled, stable and productive workforce. This proposal seeks to further the Government's use of best commercial practices by ensuring the Government does business only with high-performing and successful companies that work to maintain a good record of compliance with applicable laws.

Cost Principle Changes

The Council is also proposing to amend the cost principle at FAR 31.205-21 to make unallowable those costs relating to attempts to influence employee decisions respecting unionization. This cost principle change is in furtherance of the Government's long-standing policy to remain neutral with respect to employer-employee labor disputes (see FAR Part 22). It has come to the Council's attention that some contractors are claiming, as an allowable cost, those activities designed to influence employees with respect to unionization decisions. Inasmuch as a number of cost-based Federal programs have long made these types of costs unallowable as a matter of public policy (e.g., see 29 U.S.C. 1553(c) (1), 42 U.S.C. 1395x(v)(1) (N), 42 U.S.C. 9839(e), and 42 U.S.C. 12634(b)(1)), equity dictates that this same principle be extended to Government contracts, as well.

Finally, the Council is proposing to amend FAR 31.205-47 to make clear that costs relating to legal and other proceedings are unallowable where the outcome is a finding that a contractor has violated a law or regulation, or where the proceeding was settled by consent or compromise (except that such costs may be made allowable to the extent specifically provided as a part of a settlement agreement). At present, the relevant cost principle generally makes unallowable legal and other proceeding costs where, for example, in a criminal proceeding, there is a conviction, or where, for example, in a civil proceeding, there is a monetary penalty imposed. It has been brought to the Council's attention that there are a number of civil proceedings brought by the Federal Government each year that do not result in imposition of a monetary penalty (e.g., NLRB or EEOC proceedings), but which do involve a finding or adjudication that a contractor has violated a law or regulation, and where appropriate remedies are then ordered.

Under the proposed rule, the allowability of legal and other proceedings costs would depend on whether or not a contractor is found to have violated a law or regulation rather than on the nature of the remedy imposed. Taxpayers should not have to pay the legal defense costs associated with adverse decisions against contractors, especially where the proceeding is brought by an agency of the Federal Government.

Additional Consideration

In order to give greater effect to the FAR responsibility clarifications being proposed, the Council would appreciate receiving comments and suggestions concerning whether the provision appearing at FAR 52.209-5—"Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters," should be amended to provide for enhanced responsibility disclosure relative to this proposal.

B. REGULATORY FLEXIBILITY ACT

This proposed rule is not expected to have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because most contracts awarded to small entities do not involve use of formal responsibility surveys. In addition, most contracts awarded to small entities use simplified acquisition procedures or are awarded on a competitive fixed-price basis and do not require the submission of cost or pricing data or information other than cost or pricing data, and thus do not require application of the FAR cost principles. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments are invited from small business and other interested parties. Comments from small entities concerning the affected FAR parts also will be considered in accordance with 5 U.S.C. 601. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAR case 99-), in correspondence.

C. PAPERWORK REDUCTION ACT

The Paperwork Reduction Act does not apply because the proposed FAR changes do not impose recordkeeping or information collection requirements, or collection of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 9 and 31: Government procurement.

Dated:

EDWARD C. LOEB,
Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 9 and 31 are proposed to be amended as set forth below:

PART 9—CONTRACTOR QUALIFICATIONS

1. The authority citation for 48 CFR Part 9 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Subsection 9.104-1 is proposed to be amended by revising paragraphs (d) and (e) to read as follows:

9.104-1 General standards.

* * * * *

(d) Have a satisfactory record of integrity and business ethics (examples of an unsatisfactory record would include persuasive evidence of the prospective contractor's lack of compliance with tax laws, or substantial noncompliance with labor and employment laws, environmental laws, anti-trust laws and other consumer protections);

(e) Have the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain them (including, as appropriate, such elements as production control procedures, property control systems, quality assurance measures, and safety programs applicable to materials to be produced or services to be performed by the prospective contractor and subcontractors) (see 9.104-3(a)), and the necessary workplace practices addressing matters such as training, worker retention, and

legal compliance to assure a skilled, stable and productive workforce;

* * * * *

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

3. The authority citation for 48 CFR Part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

4. Subsection 31.205-21 is proposed to be amended by redesignating the current text as paragraph "(a)" and adding a paragraph (b) to read as follows:

31.205-21 Labor relations costs.

(a) Costs incurred in maintaining satisfactory relations between the contractor and its employees, including costs of shop stewards, labor management committees, employee publications, and other related activities, are allowable.

(b) Costs incurred for activities related to influencing employees respecting unionization are unallowable.

5. Subsection 31.205-47 is proposed to be amended by adding a new subparagraph (f)(9) to read as follows:

31.205-47 Costs related to legal and other proceedings.

* * * * *

(f) ***

(9) Defense of judicial or administrative proceedings brought by the Federal Government for violation of, or failure to comply with, law or regulation by the contractor (including its agents or employees), where (i) the contractor was found to have violated a law or regulation or (ii) the proceeding was settled, except that costs not otherwise unallowable may be allowed to the extent specifically provided as part of a settlement agreement between the contractor and the Federal Government resolving the proceeding by consent or compromise.

A TRIBUTE TO THREE CIVIL RIGHTS LEADERS**HON. BENJAMIN A. GILMAN**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 17, 1999

Mr. GILMAN. Mr. Speaker, earlier this week, we were gratified to present Mrs. Rosa Parks with a Congressional Medal of Honor. She is commonly known as the Mother of Civil Rights. The next day we honored Congressman BOB FILNER and Congressman JOHN LEWIS at a luncheon commemorating the thirty fifth anniversary of the Freedom Rides. Both Congressmen participated in the rides of 1961. These people were willing to sacrifice their own lives in order to free our country of social injustice. Accordingly, I rise today to ask our colleagues to join me in honoring Mrs. Rosa Parks, Congressman JOHN LEWIS, and Congressman BOB FILNER. All three of these outstanding Americans have dedicated their lives to the defense of our civil rights. They participated in the Civil Rights Movement, understanding that there was a danger to their own lives.

Rosa Parks boarded a bus in December of 1955. She was not looking to incite any trouble. She was tired of being told for her entire life to move to the back of the bus for white

people. She took a stand in refusing to move from her seat and was arrested. A year later, she rode a bus again. This time she sat where she pleased. Because of her leadership in the subsequent bus boycott, the transit company was brought before a Federal court that issued a ruling recognizing the right of all people to ride the bus and sit where they pleased. She has since become known as the "Mother of the Civil Rights Movement."

Mrs. Parks became the secretary of the NAACP. Later she became the Advisor to the NAACP Youth Council. Rosa Parks has created educational programs for our youth through the Rosa and Raymond Parks Institute for Self-Development. These programs are designed to expand the knowledge of children, ages eleven to eighteen, regarding the Civil Rights Movement, the Underground Railroad and other significant aspects of African American History.

Rosa Parks took a stand when the odds were against her. Her courageous actions are an example of the efforts that we must all make in our everyday lives to defend our rights and the rights of those around us.

Congressman JOHN LEWIS became involved in the Civil Rights Movement at an early age. He challenged segregation at lunch counters. Congressman LEWIS participated in the Freedom Rides in 1961. He was severely beaten by mobs, risking his life. From 1963 until 1966, he was the chairman of Student Non-violent Coordinating Committee (SNCC) which was responsible for organizing sit-ins and other events to help further the Civil Rights Movement. JOHN was considered to be one of the "Big Six" leaders of the civil rights movement. LEWIS both planned and spoke at the March on Washington. Congressman LEWIS led a march across the Edmund Pettus Bridge in Selma, Alabama in 1965. The marchers were met by the Alabama State Troopers in a violent scene. This confrontation aided in the passing of the Voting Rights Act of 1965.

Congressman JOHN LEWIS has been a member of Congress since 1986. He has been a member of the House Ways and Means Committee, the Subcommittee on Health, and the Subcommittee on Oversight. He is a member of several different caucuses. JOHN LEWIS has served our nation his entire life. He embodies everything that our country stands for. Today, he is especially devoted to the needs and aspiration of his constituents.

Congressman BOB FILNER began his struggle for civil rights in 1961. He was a participant in the first Freedom Rides. He was arrested and imprisoned in Mississippi for several months for his courageous stand. Congressman FILNER entered Congress in 1992. He was named to the Committee on Transportation immediately. FILNER has been an advocate for funding Medicare, crime control, education, the environment, and veterans.

These courageous civil rights advocates remind us of our responsibilities. They protected the deepest virtues that our country promises. That is freedom and equality. They knew and understood that the oppression of people was wrong and rebelled against the evil of injustice. They recognized the social ills that surrounded them and destroyed the foul winds of prejudice.